

A.S.B.C.E.

The official Newsletter of the Alabama State Board of Chiropractic Examiners

102 Chilton Place, Clanton, Alabama, 35045

Web site www.chiro.state.al.us E-mail address sheila.bolton@chiro.alabama.gov

Phone number 1-800-949-5838 or 1-205-755-8000 Fax 1-205-755-0081



Presidential Message

By Carl E. Nelson, D.C.

Dear Colleagues:

Another quarter has gone by and another season is upon us. I think most of us are glad for warmer weather and longer days. I would like to take this opportunity to welcome Dr. Ricardo Herring, from Birmingham, to the Board in filling our new at large seat. Some of you questioned the need to send ballots since we only had one candidate for this seat, and the reason for this is that our statute (law) states that ballots will be sent and does not allow the option of not doing so in the case of only one candidate.

The same holds true for the district seats. The only difference when there is only one candidate is that three members of the Board can count and certify the ballots instead of having to pay a CPA to do it, which is how it's done when there are two or more candidates. As of this writing, the deadline for ballots to be received for the unexpired district four seat of Dr. M. G. Lett, has not expired, so we are not yet able to announce who will finish out that term. Three candidates qualified for the seat and we do not yet know if there will be an outright winner or a runoff, so that announcement will be made in the next newsletter.

The Board received some comments during the qualifying period for district four (and for districts five and six at the end of last year) about not being able to find out from the Board office who had submitted their names to run for a specific district. The reason being that a person may make a

INSIDE THIS ISSUE

Advisory Opinions	5
Disciplinary Actions	2
Election Results	2
Meeting dates	10
New licensees	6
Rules	7, 8, 9
Presidential Message	1, 4
Upcoming Seminars	3

decision to run or not based on who else was running. The members of the Board at the time the election process was started back in the mid 90's, made the decision not to release the names because some candidates who submit their names may not actually be qualified to run (qualifications are listed in the rules), and the issue had never been revisited. The present Board reconsidered this policy and decided that in the future we will release, upon request, the names submitted for a particular seat with the understanding that candidates are not actually qualified (and may or may not actually appear on the ballot) until the next Board meeting where the Board formally qualifies them.

Some words of warning about a few issues and I'll cut the "sermon" short for this issue (hallelujahs would be appropriate here, ha ha). Apparently some of the practice management consultants have come up with some "new twists" on pre-payment plans. There is a rule concerning how this is to be handled, and in light of information we have received relative to these "new twists", the Board is revising and amending this rule to make it more clear as to how these funds are to be handled. This topic is also addressed elsewhere in this issue.

The next item is to remind you that you

Please see *Presidential Message* on page 4

Disciplinary Actions

Joseph P. Foster, DC (Mobile, Alabama) License # 1491 Consent order– dated February 9, 2007 -- assessing fines \$500.00 and cost of \$500.00– guilty of two counts of violating § 34-24-166(b)(16) in connection with advertising.

Kevin Snell, DC (Foley, Alabama) License # 2088 Consent order dated February 9, 2007– assessing fines and cost of \$1,000.00– –guilty of violating Code of Alabama (1975) § 34-24-166(b)(3) and (11) in connection with failure to release records to a patient upon request.

David E. Wade, DC (Anniston, Alabama) License # 1059 Final Order– stipulation and agreement – dated February 5, 2007 – assessing fines of \$10,000.00 and costs of \$2,500.00 – guilty of violating a previous consent order, violating Code of Alabama (1975) § 34-24-166(b)(3)(13) and (14) total of four counts. Suspension for a period of five years with immediate reversion to probation, for two years all advertising must be approved by the Board prior to its use, etc.

Trust Accounting Compliance

Recently, the Board received several complaints regarding licensees and Pre Payment Plans. The most common violation of this rule involves the minimum accounting procedures. At the March meeting the Board proposed an amendment to the rule to clarify any confusion the licensee / clinic owner might have regarding the requirements if you use prepayment plans.

These changes make it clear there must be a separate trust account for each person and there must be an explanation signed by the patient of what services will be provided.

On line Alabama Law seminars

The hours required in Board law are now available on line. However, the on line system will not give you credit for the course unless you actually review the information for the correct amount of time. You cannot receive credit for the course if you go directly to the exam, even if you pass the exam.

Go to www.chiro.alabama.gov and click the link on the home page to sign up.

ELECTION RESULTS

African American Member

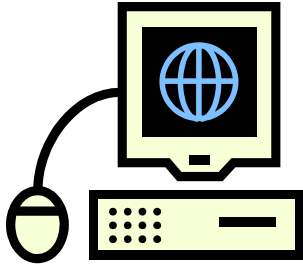
The Board and staff welcome Dr. Ricardo Herring as the newest member. Dr. Herring will serve until 12/2010.

Vacant Board seat for

District 4

Ballots have been returned to the Board and sent to the CPA to be counted. At the time of printing we do not know if there will be a run off or if the new member will be coming this month.

The District 4 seat is for the unexpired term and will expire 12/31/08.



Upcoming Seminars

Palmer Institute for Professional Advancement offers the following **ON-LINE** seminars until December 2007.

For information on any of these seminars contact Sharon Whitney at 1-563-884-5715.

1. "Soft Tissue Care in Chiropractic" 6 hours per session
2. "Case Studies in Chiropractic-The Thoracic Spine I" 9 hours per session
3. "Record keeping and Risk Management" 12 hours per session
4. "Special Imaging for the Chiropractic Patient" 10 hours per session
5. "Emergent Care of the Injured Individual" 12 hours per session
6. "Nutritional Issues in Chiropractic" 10 hours per session
7. "Core Concepts of Rehabilitation" 6 hours per session
8. "Case Studies in Chiropractic-The Cervical Spine I" 6 hours per session
9. "Special Populations – The Female Patient" 6 hours per session
10. "Chiropractic Care of Peripheral Neuropathies" 12 hours per session
11. "Concepts of a Team Chiropractor" 10 hours per session
12. "Professional Boundaries & Chiropractic Practice" 6 hours per session
13. "Ethical Issues in Chiropractic Practice" 6 hours per session
14. "The Preparticipation Examination" 12 hours per session
15. "The Spine in Sport" 6 hours per session
16. "Patient Care in Radiology" 6 hours per session

University of Bridgeport / Chiro Credit presents the following on line until August 2007:

1. "Physical Diagnosis 101-119" for 19 total hours until December 2007:
1. "Nutrition" for 6 hours
2. "Pediatrics" for 6 hours
3. "Physical Therapy" for 6 hours
4. "Physical Diagnosis" for 6 hours
5. "Orthopedics" for 6 hours
6. "Internal Diagnosis and Family Practice" for 6 hours

For information contact

Paul Powers, DC at 1-860-463-9003.

New York Chiropractic College offers the following ON LINE seminar until December 2007:

1. "Acupuncture Eight Extraordinary Meridians" for 4 hours

For information contact Rosemarie Burrafato at 1-516-796-5923.

NOTE: Only 6 of the 18 hours per year may be taken on-line.

DC Online presents "Alabama Rules and Regulations" with up to 4 hours available **On Line** through 9-30-07. For information and registration contact William Moreau, DC at 1-712-260-2507. **(This seminar provides the required hours in Alabama Law.)**

In Alabama

ASCA (Alabama State Chiropractic Association) presents:

1. "ASCA 2007 Annual Convention" for 18 hours on June 8-10, 2007 in Birmingham, AL. *(This will include 2 hours in Board law)*
2. "Advanced Principles of Lower Extremity Adjusting" for 12 hours August 4-5, 2007 in Huntsville, Alabama.
3. "Beach Seminar – The Changing Role of Chiropractic in Healthcare" for 6 hours September 8-9, 2007 in Pensacola, Florida.

For information contact Angela Ing, DC at 1-334-262-2228.

Submitted but not yet approved: **Chiropractic Society of Alabama** presents "S.O.T. / Chiropractic Law" for 12 hours on August 11 & 12, 2007 in Homewood, Alabama. For information contact Louis Poe, DC at 1-205-681-1111.

Presidential Message from Page 1

the doctor, and / or permit holder, are responsible for whatever actions are taken on behalf of your practice. Specifically, beware of these companies calling and sending faxes offering to send you new patients. If they violate the solicitation rule, YOU will be held accountable, not them.

Next are websites. If you have one or are planning to get one, everything on it must comply with the advertising rules. You cannot put anything on your website that couldn't go in a newspaper or yellow page advertisement.

Last but not least is "records release". Upon written request, you have to release records to the patient or their authorized designee in the manner specified in the rules (this rule was recently amended, make sure you know what the latest version states). We are having quite a few complaints from patients relative to this issue.

Also, FYI, if you are found guilty in a Board proceeding (whether through a formal hearing or a consent agreement), this information is reported to the Federation of Chiropractic Licensing Boards (FCLB) and from there is entered into a national computer database, making that information readily available to PPO's, HMO's, etc, which could affect your status with them upon recredentialing.

Yours in Health,

Carl E. Nelson, DC

Rules – Update

There are three (3) amended rules to replace in your Rules and Regulations for this Quarter. Please see pages 7, 8 and 9.

The Board also proposed amendments to 190-X-5-.07 Trust Accounting Procedures for Pre-Payment Plans (deadline for comments is 5-23-07), 190-X-5-.09 Chiropractic Records Required: Release of Records, 190-X-3-.02 Chiropractic Physiological Therapeutics, and 190-X-3-.01 Acupuncture (deadline for comments has passed - final text will be in the July newsletter)

Condolences to:

On March 2, 2007 Dr. John F. Gay passed away. Dr. Gay graduated Palmer College of Chiropractic in 1958 and received his Alabama license in 1960. The Board and staff send condolences to the family and friends of Dr. Gay.

Notes from Advisory Opinions

The Board reviewed over 40 requests for opinion this quarter. The following are highlights from those opinions issued:

- The disclaimer as outlined in Rule 190-X 5-.04 must be included in an advertisement with a complimentary initial consultation. The disclaimer must be exactly as set out in the rules, including the separation from any other part of the advertisement. In several of the opinions requested there were typos and format errors which should be have caught with proper proof reading prior to submission.
- "Chiropractor/Orthopedist" could be construed as suggesting you are a medical orthopedist. You should use the wording "Chiropractic - Orthopedist"
- Immediate appointments cannot be guaranteed.
- No advertisement containing a testimonial may be disseminated unless the chiropractor has first submitted to the Board an authorization from the person making the testimonial regarding the claims made in the testimonial. The authorization must be signed by the patient and witnessed and on file in the board office.
- The phrase "Live Well, Get Adjusted" as submitted is acceptable.
- A licensee must use the same practice name in all advertisements.
- The names of any chiropractors employed or associated with a clinic must be conspicuously identified.
- Photos of a non licensee appearing in an advertisement must conspicuously identify the person.
- The following language should be included whenever free or discounted services are advertised: This offer does not apply to those received Medicare, Medicaid or who are eligible to receive benefits from Federal insurance.
- If you reference a value, you must be able to submit documentation to support the claim if requested. (value \$125)
- If you utilize health certificates you must be sure their distribution does not violate the Solicitation Rule.

The Board suggest licensees download and print a current copy of the Advertising rule for comparison to ads prior to submission to the Board for an opinion. Many of the ads received contained obvious violations.

The remaining ads submitted for opinion needed no changes. Thanks again to the licensees who work hard to stay informed and produce compliant advertising materials.

Congratulations to those licensed since January 2007

Larhonda C. Bester of Tuscaloosa, Alabama

Kristina B. Boyd

James C. Briggs

Chukwuemeka, Chidebelu-eze

Lee Goldenberg

Kevin W. Kemner

Teresa L. Marshall

Eric Moore

Leroy F. Otto

April Ralph

Thomas Vrbka

Shi Jun Zhang

of Eufaula, Alabama

of Huntsville, Alabama

of Powder Springs, Georgia

of Atlanta, Georgia

of Rogersville, Alabama

of Mankato, Minnesota

of Madison, Alabama

of Lake City, Minnesota

of League City, Texas

of Auburn, Alabama

of Mobile, Alabama

Special Reports

The Board received information regarding advertising being done by Alabama dentist involving what has been called "special reports". While this Board is no way has authority over dentist, the question was "Why can dentist use these reports and chiropractors can not?"

Basically, according to the legal counsel for the Dental Board these "special reports" violate the Dental Practice Act and Regulations.

The Board just wanted to let you know; just because an advertisement is disseminated to the public does not mean it is acceptable or compliant. Many of the other Boards, like our Board, do not see ads unless someone files a complaint involving the ad.

Don't just copy an ad and change it to your information without comparing to the Advertising Rule for potential violations.

Marketing Programs

The Board would like to remind all licensees and permit holders to be careful before entering contracts with companies claiming to have developed NEW marketing programs which allow chiropractors to acquire new patients. Many of the companies' solicitation practices are not compliant with the Alabama Chiropractic Practice Act and Rules and Regulations. You should always read the fine print in any contract before signing to be sure there are no parts of the agreement which would cause you to violate the law and rules.

RULE 190-X-2-.11 Renewal of License(1) Annual Renewal Required.

Each license shall be subject to renewal on September 30 of the year for which it is issued and every person having a valid license may on or before September 30th renew the license for the ensuing year by the payment to the State Board of Chiropractic Examiners of the fees set forth below. Each licensee shall complete a renewal form provided by the Executive Secretary of the Board. Renewal notices will be mailed or emailed in August of each year.

(2) Continuing Professional Education Required. A minimum of 18 hours of continuing education as approved by the Alabama State Board of Chiropractic Examiners is required annually for license renewal.

(a) As a condition of licensure renewal for those who are currently licensed and actively practicing in this state, a chiropractor must obtain every year a minimum of two (2) hours of continuing education in Board approved courses on chiropractic regulation and compliance with the Alabama Chiropractic Practice Act and Board rules. The two (2) hours are included in the minimum of 18 hours.

(b) For those who receive a license after October 1, 2004 and are actively practicing in this state a chiropractor must obtain four (4) hours of the continuing education referred to in (a) above within one (1) year of licensure.

(c) For those who are licensed to practice in this state but who are not actively practicing in this state, the continuing education referenced in (a) above must be obtained within twelve months of actively practicing in this state.

(d) The requirement set forth in (a)(b) and (c) above may be satisfied by distance based continuing education in addition to the distance based education allowed in paragraph (3).

(3) No more than one third (1/3) of the required hours may be completed in a distance based continuing education format which complies with the provisions of this rule. Annually shall mean October 1 - September 30 of each year.

(a.) All providers of distance based continuing education courses must be an entity approved by the Board.

(b.) Providers shall submit to the Board:

(aa.) the required fee and a completed FCLB Uniform Continuing Education Application,

(bb.) Curriculum Vitae of the course instructor(s).

(cc.) Proof of policies and procedures for implementation and evaluation of the course and the educational units.

(dd.) Electronic records of contact hours awarded to the licensee in a format and method specified by the Board.

(4) All seminars, workshops, and / or conventions staged in or out of the State of Alabama must be submitted to the Board for their approval. After examination of the subject material, the Board, in its discretion, may grant credit towards license renewal. In determining whether credit is granted and the number of credit hours granted, the Board shall consider the apparent quality of the material taught and its professional value to the practitioner.

The continuing educational requirement for the purpose of license renewal for any person who has graduated from a recognized CCE chiropractic college within the licensure year immediately preceding the licensure year indicated on the license renewal form except hours required in (2)(b) above may be met through attendance at a recognized CCE chiropractic college (a minimum of 18 hours). This applies only to the first license renewal period after initial licensing.

During the grace period (October 1 to December 31) for renewal, a licensee may complete any continuing education requirements for renewal that the licensee failed to complete during the prior fiscal year. Hours obtained during the grace period do not qualify or apply to the deferral procedure outlined below. Hours must be received in the board office before January 1 to avoid reinstatement.

Renewal of License continued

(5) Educational Requirement May be Waived or Deferred.

A licensee who cannot complete the continuing educational requirements because of personal illness, military service or other circumstances beyond the licensee's control which the board deems to be sufficient to impose a hardship may apply for a waiver or deferral of time to complete the continuing education requirements. Any waiver or deferral of time to complete the education requirements will be granted solely in the discretion of the board.

A licensee seeking a waiver or deferral must make application on the form provided by the Executive Secretary of the Board, prior to the December 31 license expiration for completion of the education requirement. For waivers or deferrals due to illness, the application form must be accompanied by a written statement from a physician stating the diagnosis, prognosis and length of time the licensee will be unable to practice or attend an educational program. Waivers or deferrals due to illness may be granted only to a licensee who has suffered a personal illness or personal disability of a nature that prevented or will prevent him/ her from engaging in the active practice of chiropractic for a significant portion of the continuing education period.

All licensees seeking waiver or deferral shall provide full and complete written documentation of the grounds supporting the reasons for which a deferral is sought. A licensee who requests a waiver or deferral of time to complete the required hours of continuing education shall not engage in the active practice of chiropractic beyond December 31 of any year and until the board grants the licensee's request for waiver or deferral.

(6) Renewal Fee Required.

(a) A fee not exceeding \$300.00 to be fixed by rule of the Board is required for annual license renewal. The renewal fee is \$200.00. This fee may be submitted in cashier's check, bank certified check, money order, or personal check. If a personal check is returned for insufficient funds, a \$30.00 bookkeeping charge will be levied.

(b) A licensee who is prevented from practicing chiropractic by reason of physical disability, temporary active duty with any of the armed forces of the United States, or while any licensee is completely retired from the practice of chiropractic may request a waiver or reduction of the fee for annual renewal. The waiver or reduction shall be effective so long as the disability, temporary active duty or complete retirement continues. Licensee must notify the Board within fifteen (15) days from the onset of any claimed physical disability, temporary active duty or complete retirement as set forth above. Licensee shall notify the Board within fifteen (15) days when any such condition no longer is applicable. Forms for waiver or reduction of fees must be obtained from the Office of the Executive Secretary.

(7) Late Penalty. A penalty shall be charged any person who fails to pay the renewal fee by September 30. The late penalty for renewal during the month of October is fifty dollars (\$50), for renewal during the month of November is one hundred dollars (\$100) and for renewal during the month of December is two hundred and fifty dollars (250).

(8) Lapsed License. A chiropractor may continue to practice until December 31 of the year for which a license is issued subject to Code of Alabama (1975) Section 34-24-165(b)-

Effective: 3/6/90, (1) amended 5/91, (4) amended 8/96, (4) amended 1/97, (1) amended 7/12/97, (4) amended 6/98, (6) amended 5/99, (1)(3)(4)(5)(6) amended 1/2000, (4) amended 12/2000, (2) (3) amended 2/2001, (2) amended 3/2002, (2)(d), (3), (4) amended 8/2003, (2)(a)(b)(c)(d)(e) 1/2004; (2)(a)(c)(e); amended (3)(a)(b)6/2006; (1)(2)(a) amended 10/06

Authority: 34-24-165; 34-24-144; 34-24-176; 34-24-172

RULE 190-X-2-.14 Retirement of License.

- (1) Any licensee who is no longer in active practice may apply to the Board for retirement of his/ her license by submitting an affidavit to that effect on a form supplied by the executive secretary.
- (2) A retiree is excused from the continuing education requirement by rule 190-X-2-.11(2).
- (3) The annual fee for maintenance of a retired license may not be more than one-half that provided in 190-X-2-.11(4) for an active license.
- (4) A retired license may be reactivated in the same manner as provided in Rule 190-X-2-.12; provided, however, that the applicant for reactivation may not be required to pay back fees for reinstatement to active practice.

Effective: 6/14/84, (3), (5) amended 8/2003; (4)(5) amended 10/2006

Authority: 34-24-165; 34-24-144

RULE 190-X-2-.17 Non Licensed Chiropractic Practice Ownership.

Definition. For the purpose of this rule, practice shall mean an office, clinic or other place that offers or provides chiropractic services which is owned in whole or in part by a non licensed person or entity.

Permit Required.

- (1) A practice shall not offer or provide chiropractic services without all non licensed owners' first obtaining a permit or renewal permit from the Board.
- (2) An applicant for a permit shall submit to the Board an application as prescribed by the Board, along with a permit fee to be established by the Board. The application must be signed by all owner(s), if a sole proprietorship, or by an authorized representative, if a partnership, corporation, Limited Liability Company or Limited Liability Partnership.
- (3) The following information shall be included in the application and upon renewal:
 - a. The legal name of the practice and street address, telephone and facsimile numbers of the practice;
 - b. The type of entity (Sole proprietorship, partnership, corporation, Limited Liability Company, or Limited Liability Partnership);
 - c. The name, address and percentage of ownership of each person or entity;
 - d. The name and license number of each chiropractor licensed by the Board who is employed or otherwise engaged to offer or provide chiropractic services at the practice.
- (4) No permit or renewal will be issued on an incomplete submission. Applications or renewals that are submitted without all of the required documents, information and / or fees will be deemed incomplete and returned to the applicant.
- (5) Practice permits shall not be required for licensed hospitals as defined in Sections 22-21-7, Code of Alabama 1975, or public health clinics registered with an appropriate government agency.
- (6) At least 30 days prior to the expiration of a practice permit, the Board shall send a renewal to owner(s) of a practice.
- (7) Late Fees. A practice which does not renew the permit by September 30 shall pay late fees in the same amount as outlined in 190-x-2-.11(7).

Any licensed chiropractor who offers or provides chiropractic services for or in a practice as defined in this rule without said practice having first obtained a permit or a timely renewal shall be considered to have engaged in Immoral, or Unprofessional Conduct. A practice permit shall be subject to the provisions of the Alabama Chiropractic Practice Act in regard to issuance and renewal of the permit or the acts or omission of any licensed chiropractor employed or otherwise engaged to offer or provide chiropractic services.

Author: J Ward

Effective: 10/1/04; amended (7) 10/06

Authority: 34-24-123; 34-24-165



ASBCE
102 Chilton Place
Clanton, AL 35045

Sheila Bolton
Executive Secretary

Debra Darnell
Administrative Assistant

Phone
(800) 949-5838
(205) 755-8000

Fax
(205) 755-0081

E-mail
sheila.bolton@chiro.alabama.gov

We're on the Web!

Visit us at:
www.chiro.state.al.us

ALABAMA STATE BOARD OF
CHIROPRACTIC EXAMINERS
102 CHILTON PLACE
CLANTON, AL 35045

MEETING DATES

April 6 & 7, 2007 Board meetings and hearings at the Clanton Board office.

June 8 – 10, 2007 Board meetings at the ASCA Convention in Birmingham Alabama.

August 3 & 4, 2007 Board meetings and hearings at the Clanton Board office.

Please visit the Secretary of State website for exact meeting information.

About the Board

Carl E. Nelson, DC, President, Member District 2

Gilles X. Beaumont, DC, Vice – President, Member District 1

Jerry L. Schreiner, DC Secretary / Treasurer, Member District 7

Brian Wells, DC, Member District 3

VACANT, Member District 4

Larry H. Heaton, DC, Member District 5

Gerald J. Collins, DC, Member District 6 / Preceptor Director

Ricardo Herring, DC, Minority Member

Jeanette Greene, Consumer Member

James S. Ward, Esquire Board Attorney

BULK RATE PERMIT NO. 14 CLANTON
